

HOUSE BILL 310

By Hawk

AN ACT to amend Tennessee Code Annotated, Title 49,
Chapter 13, relative to public charter schools.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and cited as the "Tennessee High-Quality Charter Schools Act".

SECTION 2. Tennessee Code Annotated, Section 49-13-104, is amended by deleting subsection (3) in its entirety and substituting instead the following language:

(3) "Charter agreement" means a fixed-term renewable agreement between a public charter school and the chartering authority that outlines the responsibilities and performance expectations of each party;

SECTION 3. Tennessee Code Annotated, Section 49-13-104, is amended by adding the following as a new, appropriately designated subsection:

() "Conversion public charter school" means a charter school established by the conversion of an existing non-charter public school into a charter school;

SECTION 4. Tennessee Code Annotated, Section 49-13-106, is amended by deleting subdivisions (b)(1)(D) and (b)(3)(B) in their entireties and appropriately redesignating the remaining subdivisions.

SECTION 5. Tennessee Code Annotated, Section 49-13-106, is further amended by deleting in subdivision (a)(3)(A) the language "or member of the governing body" and substituting instead the language "member of the governing body, or siblings of students already enrolled in the public charter school".

SECTION 6. Tennessee Code Annotated, Section 49-13-108, is amended by deleting subsection (d) in its entirety and substituting instead the following language:

(d) Chartering authorities shall not approve an application based on conditions or contingencies.

SECTION 7. Tennessee Code Annotated, Section 49-13-108, is further amended by deleting subsection (f) in its entirety and substituting instead the following language:

(f) Chartering authorities shall adopt national authorizing standards for use in reviewing and approving charter school applications.

SECTION 8. Tennessee Code Annotated, Section 49-13-108, is further amended by adding the following language as a new, appropriately designated subsection:

() Within ten (10) days of approving or denying a charter application, the chartering authority shall report to the department of education whether the chartering authority has approved or denied the application. The chartering authority shall provide the department a copy of the chartering authority's resolution setting forth the action taken and reasons for the decision.

SECTION 9. Tennessee Code Annotated, Title 49, Chapter 13, is amended by adding the following language as a new, appropriately designated section:

(a) If the local board of education is the chartering authority of a charter school, then the local board shall receive an annual authorizer fee that is a percentage of the charter school's per student state and local funding as allocated under § 49-13-112. The annual authorizer fee shall be calculated based on the following schedule:

(1) If the local school board oversees one (1) to ten (10) public charter schools, the annual authorizer fee shall be three percent (3%) of the annual per student state and local allocations;

(2) If the local school board oversees eleven (11) to twenty (20) public charter schools, the annual authorizer fee shall be two percent (2%) of the annual per student state and local allocations;

(3) If the local school board oversees twenty-one (21) or more public charter schools, the annual authorizer fee shall be one percent (1%) of the annual per student state and local allocations.

(b) The LEA shall use the annual authorizer fee exclusively for fulfilling authorizing obligations in accordance with this chapter.

(c) By December 1 of each year, each LEA that collects an annual authorizer fee shall report to the department of education the total amount of authorizer fees collected in the previous school year and the authorizing obligations fulfilled using the fee. The department shall create a standard document for the purposes of this report and shall post the information on its website.

SECTION 10. Tennessee Code Annotated, Section 49-13-112, is amended by deleting subsection (a) in its entirety and substituting instead the following language:

(a) A local board of education shall allocate to the charter school an amount equal to the per student state and local funds received by the LEA and all appropriate allocations under federal law or regulation, including, but not limited to, Title I and ESEA funds. The allocation shall be made in accordance with the policies and procedures developed by the department of education. Each LEA shall include as part of its budget submitted pursuant to § 49-2-203, the per pupil amount of local money it will pass through to charter schools during the upcoming school year. Allocations to the charter schools during that year shall be based on that figure. The LEA shall distribute the portion of local funds it expects to receive in no fewer than nine (9) equal installments to the charter schools in the same manner as state funds are distributed pursuant to chapter 3 of this title. An LEA shall adjust payments to the charter schools, at a minimum, in October, February, and June, based on changes in revenue, student enrollment, or student services. Before decreasing payments to the charter schools, the

LEA must notify the commissioner. All funds received by a charter school shall be spent according to the budget submitted or as otherwise revised by the public charter school governing body, subject to the requirements of state and federal law. At the request of the charter school governing body, a local board of education may act as fiscal agent for a public charter school in accordance with the charter agreement and applicable state and federal law.

SECTION 11. Tennessee Code Annotated, Section 49-13-112, is amended by deleting subdivision (b)(2) in its entirety.

SECTION 12. Tennessee Code Annotated, Section 49-13-112, is amended by deleting subdivision (b)(3) in its entirety and substituting instead the following language:

(A) With the exception of the annual authorizer fees provided under this chapter, a public charter school shall not be required to pay a fee or purchase any services from the charter authorizer. Charter schools shall not be required to pay any fee as a condition for charter approval by the local board of education or for recommendation for approval by LEA staff or a committee established by the LEA for the purposes of making recommendations for charter school application decisions;

(B) A public charter school may choose to purchase services from the LEA in which the school is located, such as transportation or food services. In such event, the public charter school and LEA shall execute an annual service contract, separate from the charter contract, setting forth the mutual agreement of the parties concerning any service fees to be charged to the public charter school;

(C) A public charter school shall not pay any administrative fee to the LEA for charter authorizing functions except as provided through the annual authorizer fees mandated or permitted by this chapter;

(D) If the charter agreement includes a provision whereby the chartering authority will provide services for employee benefits or retirement, then the chartering authority may withhold funds to cover the costs of those services. If a services contract is executed with the chartering authority, then the chartering authority may withhold funds to cover the costs of those services.

SECTION 13. Tennessee Code Annotated, Section 49-13-112(c)(1), is amended by deleting the language "The per pupil share of each charter school shall be based on prior year ADM, except that the per pupil share of any charter school in its first year of operation shall be based on the anticipated enrollment in the charter agreement."

SECTION 14. Tennessee Code Annotated, Section 49-13-113, is amended by deleting the section in its entirety and substituting instead the following language:

(a) Participation in a public charter school shall be based on parental choice or the choice of the legal guardian or custodian.

(b)

(1) A public charter school shall enroll an eligible pupil who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building.

(2) An enrollment preference shall be provided to students who attended the charter school during the previous school year.

(3) If the number of applications exceeds the capacity of a program, class, grade level, or building, the charter school shall select students through a lottery. The enrollment preference for returning students provided in subdivision (b)(2) shall exclude those students from entering into a lottery.

(4) If an enrollment lottery is conducted, a public charter school shall give enrollment preferences in the following order:

(A) Students enrolled in a pre-k program operated by the charter school sponsor;

(B) Students enrolled in a charter school that has an articulation agreement with the enrolling public charter school; provided, that the articulation agreement has been approved by the chartering authority;

(C) Siblings of students already enrolled in the public charter school;

(D) Students from a group or groups set forth in § 49-13-106(b)(1)(C) if the public charter school has been approved with the focus of serving such students;

(E) Students residing within the LEA in which the public charter school is located who were enrolled in another public school during the previous school year; and

(F) Students residing outside the LEA in which the public charter school is located.

(5) A public charter school may give an enrollment preference to children of a teacher, sponsor, or member of the governing body of the charter school, not to exceed ten percent (10%) of total enrollment or twenty-five (25) students, whichever is less.

(6) Any non-charter public school converting partially or entirely to a public charter school under § 49-13-106 shall give enrollment preference to students who reside within the former attendance area of that public school. Parents whose children are enrolled in the existing public school to be converted shall have the option to enroll their children in another public school operated by the LEA without penalty. The enrollment preference for students who reside

within the former attendance area excludes those students from entering into a lottery.

(7)

(A) A charter school shall provide to the department of education certification by an independent accounting firm or by a law firm that each lottery conducted for enrollment purposes complied with the requirements of this section. In lieu of such certification, a charter school may request that the department of education review and approve the lottery process.

(B) The charter school shall comply with the Family Educational Rights and Privacy Act, codified in 20 U.S.C. § 1232g, with respect to the publication of any students' names before, during, or after the enrollment and lottery process.

(8) The state board of education is authorized to promulgate rules concerning enrollment. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 15. Tennessee Code Annotated, Section 49-13-115, is amended by deleting the section in its entirety.

SECTION 16. Tennessee Code Annotated, Section 49-13-120, is amended by adding the following language as a new, appropriately designated subsection:

() In addition to the annual audit of accounts and records of its approved public charter schools pursuant to § 49-13-127, each chartering authority shall submit to the department of education an annual authorizing report by January 1 of each year. The report shall include the following items:

(1) The operating status of the charter schools approved by the authorizer with a designation of:

- (A) Approved but not yet open;
 - (B) Open and operating;
 - (C) Terminated, including the reason for termination; or
 - (D) Closed, including date of closing and the reason for closing;
- (2) The oversight and contracted services, if any, provided by the authorizer to the charter schools approved by the chartering authority; and
- (3) A performance report for each public charter school it oversees, in accordance with the performance framework set forth in the charter agreement.

SECTION 17. Tennessee Code Annotated, Section 49-13-121, is amended by deleting subsection (a) in its entirety and substituting instead the following language:

(a)

(1) A charter agreement shall be effective upon approval of the charter application by the chartering authority. The charter shall expire ten (10) years after the first day of instruction. An approved public charter school may delay, for a period not to exceed one (1) academic year, the initial opening of the school. If the charter school requires a delay in its initial opening of more than one (1) academic year, the school shall obtain annual approval of that delay from its chartering authority.

(2) A renewal of a charter agreement shall be for a period of ten (10) academic years.

SECTION 18. Tennessee Code Annotated, Section 49-13-122, is amended by deleting the section in its entirety and substituting instead the following language:

(a)

(1) A public charter school agreement shall be revoked or denied renewal by the final chartering authority if the school receives identification as a

priority school, as defined by the state's accountability system pursuant to § 49-1-602 for 2017, or any year thereafter. Such revocation shall take effect immediately following the close of the school year in which the school is identified as a priority school.

(2) A public charter school's identification as a priority school that is scheduled to close under this subsection (a) shall be entitled to a review by the department of education to verify the accuracy of the data used to identify the school as a priority school.

(3) This subsection (a) shall not apply to schools authorized by the achievement school district pursuant to § 49-1-614 or to schools converted to charter schools under § 49-13-106(b)(2) unless the school receives identification as a priority school, as defined by the state's accountability system pursuant to § 49-1-602, for two (2) consecutive cycles.

(4) Nothing in this subsection (a) shall prohibit a chartering authority from revoking or denying renewal of a charter agreement of a charter school that fails to meet the minimum performance requirements set forth in the charter agreement.

(b) A public charter school agreement may be revoked at any time or not renewed by the final chartering authority if the chartering authority determines that the school:

(1) Committed a material violation of any conditions, standards, or procedures set forth in the charter agreement;

(2) Failed to meet or make sufficient progress toward the performance expectations set forth in the charter agreement; or

(3) Failed to meet generally accepted standards of fiscal management.

(c) Thirty (30) days prior to any decision by an LEA to revoke a charter agreement, the LEA shall notify the charter school in writing of the possibility of revocation and the reasons for such possible revocation.

(d) If the chartering authority revokes or does not renew a charter agreement, the chartering authority shall clearly state in writing its reasons for the revocation or nonrenewal.

(e) Within ten (10) days of a chartering authority voting to renew, not renew, or revoke a charter agreement, the chartering authority shall report to the department of education the decision and shall provide a copy of the chartering authority's resolution setting forth the decision and reasons for the decision.

(f) A decision to revoke or not to renew a charter agreement may be appealed to the state board of education within ten (10) days of the decision, except for revocations or failures to renew based on the violations specified in subsection (a). Within sixty (60) days after receipt of the notice of appeal and after reasonable public notice, the state board, at a public hearing attended by the board or its designated representative and held in the school district in which the charter school has been operating, shall conduct a de novo on the record review of the chartering authority's decision. In order to overturn an LEA's decision to revoke or not to renew a charter agreement, the state board must find that such decision was contrary to this section. The decision of the state board shall be final and not subject to appeal. This subsection (f) shall apply only to decisions to revoke or not to renew a charter agreement where the LEA is the chartering authority.

(g) Except in the case of fraud, misappropriation of funds, flagrant disregard of the charter agreement, or similar misconduct, a decision to revoke or not to renew a charter agreement shall become effective at the close of the school year.

(h) If a public charter school voluntarily closes, its charter agreement with the chartering authority shall cease to be effective as of the closing date.

SECTION 19. Tennessee Code Annotated, Title 49, Chapter 13, is amended by adding the following language as a new, appropriately designated section:

The chartering authority shall have a procedure in place for the closure of a charter school prior to the decision to deny renewal or revoke a charter agreement. Closure of a charter school by the chartering authority shall be in accordance with the following:

(1) Within one (1) calendar week of a decision to deny renewal or revoke a charter agreement, a charter school must notify in writing the parents or legal guardians of all students enrolled in the school of the closure decision;

(2) Within two (2) calendar weeks of a chartering authority's decision to close a charter school, the chartering authority shall meet with the school's governing body and leadership to establish a transition team composed of staff from the charter school, staff from the chartering authority, and anyone else the chartering authority deems necessary, who shall attend to the closure, including:

(A) The transfer of students;

(B) The release and transfer of student records to the chartering authority or the department;

(C) The release and transfer of personnel records to the chartering authority or the department;

(D) The submission of financial statements to the appropriate chartering authority or department;

(E) The disposition of school funds;

(F) The disposition of school assets; and

(G) A school audit pursuant to § 49-2-112;

(3) The chartering authority and transition team shall, within thirty (30) days of the decision to close a charter school, communicate to the families of students enrolled in the school all other public school options for which the student is eligible to enroll;

(4) Once a public charter school has been non-renewed or revoked, the school may not enroll any new students. If the state board of education overturns the decision for closure pursuant to § 49-13-122, the charter school may continue to enroll students;

(5) The chartering authority and transition team shall communicate regularly with the families of students enrolled in the school, as well as with school staff and other stakeholders, to keep them apprised of key information regarding the school's closing;

(6) The chartering authority and transition team shall ensure that current instruction of students enrolled in the school continues, pursuant to the charter agreement, for the remainder of the school year unless an immediate closure is ordered by the chartering authority in accordance with § 49-13-122(g);

(7) The chartering authority and transition team shall ensure that all agencies, employees, insurers, contractors, creditors, debtors, and management organizations are properly notified of the closing of the charter school; and

(8) The governing body of the charter school shall continue to meet as necessary to wind down school operations, manage school finances, allocate resources, and facilitate the closure.

SECTION 20. Tennessee Code Annotated, Title 49, Chapter 13, is further amended by adding the following language as a new, appropriately designated section:

To effectuate § 49-13-113, within thirty (30) days of receiving a request from a chartering authority or a public charter school approved to operate one or more schools in the district, an LEA shall provide at no cost an individual student's name, age, address, dates of attendance, grade levels completed, class placement, and academic degrees awarded, in accordance with § 10-7-504.

SECTION 21. Tennessee Code Annotated, Section 49-13-136, is amended by deleting subdivision (c)(2) in its entirety and substituting instead the following language:

(2) A public charter school shall have a right of first refusal to purchase or lease at or below fair market value any underutilized or vacant property submitted by the LEA under this section. Any lease agreement executed between a charter school and an LEA shall not reflect any outstanding bonded debt on the underutilized or vacant property, except as agreed upon to reflect any necessary costs associated with the occupation or remodeling of the facility.

SECTION 22. Tennessee Code Annotated, Section 49-13-137, is further amended by deleting the section in its entirety.

SECTION 23. Tennessee Code Annotated, Title 49, Chapter 13, is amended by adding the following as a new, appropriately designated section:

(a) The performance-related provisions within a charter agreement shall be based on a performance framework that clearly sets forth the academic and operational performance indicators, measures, and metrics that will guide the authorizer's evaluation of each public charter school. The department of education shall develop a model performance framework that includes, at a minimum, student academic performance, achievement gaps between major student subgroups, postsecondary readiness, and financial performance and sustainability.

(b) Chartering authorities may develop and adopt a performance framework for all schools authorized for operation, including both charter and non-charter public schools. If a chartering authority has not adopted a performance framework for all of its schools, it must adopt the model performance framework developed by the department for its charter schools.

SECTION 24. Tennessee Code Annotated, Title 49, Chapter 13, is further amended by adding the following as a new, appropriately designated section:

(a) The commissioner of education is authorized to establish a public charter schools facilities program for the purpose of assisting public charter schools in acquiring and improving property to educate students, including the purchase of property, general capital improvements to existing and available buildings, assistance with any costs associated with the purchase or lease of underutilized or vacant property available pursuant to § 49-13-136, and assistance with the repayment of debt incurred for existing capital outlay projects.

(b) The commissioner may award grants and loans through the charter schools facilities program to public charter school governing bodies or charter management organizations for qualifying capital projects as determined through policies developed by the department of education. Such policies shall ensure funds are made available on an equitable basis for the benefit of public charter schools of all sizes, characteristics, geographic locations, and authorizers.

(c) Subject to appropriations, a public charter schools facilities fund shall be established as a separate account in the state treasury for the purposes of funding approved projects through the public charter schools facilities program. Costs for administering the public charter schools facilities program may be funded from the public charter schools facilities program fund. Amounts remaining in the fund at the end of

each fiscal year shall not revert to the general fund. Moneys in the public charter schools facilities program fund shall be invested by the state treasurer pursuant to title 9, chapter 4, part 6 for the sole benefit of the fund.

SECTION 25. This act shall take effect July 1, 2017, the public welfare requiring it.